

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No.24454 of 2006

Dated: 27.11.2006

Between:

G. Mahender, S/o T. Govind Swamy, aged about 54 years,
R/o 25-72/A, East Anand Bagh, Safilguda, Secunderabad.

.... PETITIONER

AND

A.P.S.R.T.C., Musheerabad, Hyderabad, rep. by its Managing Director and others.

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RESPONDENTS

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THE HON'BLE SRI JUSTICE N.V. RAMANA

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W.P. No. 24454 of 2006

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Order:

This writ petition is filed seeking to declare the action of the 4th respondent-Labour Court in upholding the validity of domestic enquiry vide order dated 21.07.2006 passed in I.D. No. 61 of 2005, as illegal and arbitrary.

2. The petitioner, while working with APSRTC as Welder, was issued a charge sheet-cum-suspension order dated 23.04.2004 alleging that he unauthorisedly entered into workshop premises, though he was absconding to his duties from 13.02.2004, and was collecting money from the employees, and that he misbehaved by using filthy language against one Srimannarayana, Sub-Inspector of Police of ZWS, Uppal, who rushed to enquire into the matter on 10.03.2004. The petitioner submitted his explanation denying the said charges. Thereafter, an enquiry officer was appointed to enquire into the matter. The petitioner states that he made several representations to the Enquiry Officer to furnish him relevant documents, but the Enquiry Officer without furnishing the same, submitted a report. Based on the enquiry report, by proceedings dated 30.11.2004, the petitioner was called upon to submit his objections/remarks, if any. Thereafter, the petitioner was issued show cause notice, to which the petitioner submitted his reply. Ultimately, the respondents-APSRTC, vide proceedings dated 21.03.2005, removed the petitioner from service.

Assailing the said proceedings, the petitioner preferred an appeal

before the Zonal Manager, which was rejected. Thereafter, he raised an industrial dispute in I.D. No. 61 of 2005, and the Labour Court, on considering the validity of domestic enquiry as a preliminary issue, vide order dated 21.07.2006, impugned in this writ petition, held that the domestic enquiry was valid. Aggrieved by the said order of the Labour Court, the petitioner filed the present writ petition.

3. Learned counsel for the petitioner submits that the Enquiry Officer, without supplying relevant documents and without giving proper opportunity to the petitioner, conducted enquiry and submitted the report, and the Labour Court, without appreciating the same, erred in holding that the domestic enquiry was valid.

4. On the other hand, learned Government Pleader for Labour submits that since the petitioner has filed industrial dispute questioning the validity of the domestic enquiry, the Labour Court, upon considering the question as to the validity or otherwise of the domestic enquiry as a preliminary issue, held that the domestic enquiry was valid, and therefore, there are no reasons to interfere with the said finding.

5. Heard the learned counsel for the petitioner, learned Government Pleader for Labour appearing for respondent No.4-Labour Court, and the learned Standing Counsel for respondent Nos.1 to 3-APSRTC.

6. When a case of dismissal or discharge or termination of an employee is brought for adjudication, the Labour Court shall first decide as a preliminary issue the validity or otherwise of the domestic enquiry. The apex court in ***Cooper Engineering Ltd., v. P.P.***

Mundhe¹, held as under:

“We are, therefore, clearly of opinion that when a case of dismissal or discharge of an employee is referred for industrial adjudication the labour court should first decide as a preliminary issue whether the domestic enquiry has violated the principles of natural justice. When there is no domestic enquiry or defective enquiry is admitted by the employer,

there will be no difficulty. But when the matter is in controversy between the parties that question must be decided as a preliminary issue.....”

7. In the instant case, the Labour Court having considered the validity or otherwise of the domestic enquiry conducted by the respondents against the petitioner as a preliminary issue, held that the domestic enquiry is valid, and no exception can be taken to the award passed by the Labour Court recording its finding on the validity or otherwise of the domestic enquiry conducted by the respondents against the petitioner. Further, In ***Cooper Engineering Limited v. P.P. Mundhe*** (1 supra), the apex Court also held that no piecemeal adjudication of industrial dispute is permissible. In view of the said settled principle of law, the petitioner cannot be permitted to raise the issues in piecemeal and he can raise all the irregularities, if any, after passing of the award by the Labour Court only.

8. In that view of the matter, the writ petition is devoid of merit and the same is accordingly dismissed. No costs.

N.V. RAMANA, J.

Date: 27.11.2006.
NSR/SJ

¹ (1975) 2 Supreme Court Cases 661